

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

FILED IN CLERK'S OFFICE
U.S.D.C. - Atlanta

OCT 27 2011

JAMES M. HATTEN, Clerk
By: *[Signature]*
Deputy Clerk

HECTOR PAEZ JIMENEZ,
Plaintiff

vs.

**DAVID HERRERA and PATRICIA
CORTINA,**
Defendants.

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:

**Civil Action Number:
1:10-CV-1833-HTW**

**MOTION TO SET ASIDE ENTRY OF DEFAULT AND DEFAULT
JUDGMENT**

Comes now DAVID HERERRA and PATRICIA CORTINA, Defendants in the above-captioned cause, and respectfully moves that this Court set aside the Entry of Default and Default Judgment in the above-entitled and numbered cause and allow Defendant to answer the Complaint of Plaintiff, and as grounds for said Motion would show unto the Court the following:

1.

The Complaint in the above-entitled and numbered cause was filed and a summons issued by the Clerk of this Court on June 15, 2010.

2.

Service of process was supposedly made on Defendants on June 25, 2010 by a private process server.

3:

Defendants did not receive service and were unaware of this suit until they received an order of Garnishment dated October 6, 2011 (State Court of Fulton County Garnishment No.:11GR061048FX).

4.

Said Defendants, as the attached affidavit shows, through no service, ineffective service, defective service, mistake, inadvertence, failed to answer or otherwise appear in the cause within the time allowed by law.

5.

An Entry of Default was entered against Defendants on October 27, 2010.

6.

Default judgment was taken pursuant to that Entry of Default on October 27, 2010.

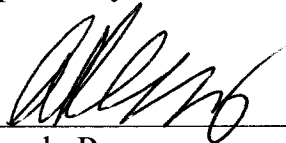
7.

Defendants have a meritorious defense to Plaintiff's Complaint, as shown by the attached Answer of David Herrera and Patricia Cortina.

WHEREFORE, Defendants move the Court for an Order setting aside the Entry of Default and the Default Judgment in the above-entitled and numbered cause and allowing Defendants' Answer, attached to this Motion, to be filed.

Witness my signature this the 26th day of October, 2011.

Respectfully submitted,



Amanda Perez
State Bar No. 940684
Attorney for Defendants

Perez Law Office, LLC
1294-C Alpharetta Street, Suite D
Roswell, Georgia 30075
770-650-0080
770-650-0004 Fax

CERTIFICATE OF COUNSEL

Pursuant to N.D. Ga. R 7.1, the below signatory attorney certifies that the foregoing pleading was prepared with Times New Roman (14 point), one of the fonts and point selections approved by the Court in N.D. Ga. R 5.1 C.




Amanda Perez
State Bar No. 940684
Attorney for Defendants

Certificate of Service

This is to certify that I, Amanda Perez, attorney for Defendants David Herrera and Patricia Cortina, have this date served a true and correct copy of the above and foregoing Motion by U.S. Mail, postage fully prepaid, to the following counsel of record for Plaintiff:

Kevin D. Fitzpatrick, Jr.
3100 Centennial Tower
101 Marietta Street
Atlanta, Georgia 30303

This the 27th day of October, 2011.



Amanda Perez
State Bar No. 940684
Attorney for Defendants

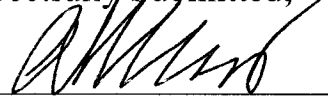
Perez Law Office, LLC
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Suite D
Roswell, Georgia 30075
770-650-0080
770-650-0004 Fax
amandaprzz@att.net

**NOTICE OF MOTION TO SET ASIDE ENTRY OF DEFAULT AND
DEFAULT JUDGMENT**

You are notified that on _____, at
_____ am/pm, or as soon thereafter as counsel can be heard, in Courtroom
_____ of the United States District Court For the Northern District of Georgia
Atlanta Division Courthouse at

_____, Defendants David Herrera and Patricia
Cortina, by and through their attorney, will bring on for hearing their **Motion to
Set Aside Entry of Default and Default Judgment.**

Respectfully Submitted,



Amanda Perez
State Bar No. 940684
Attorney for Defendants

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Roswell, Georgia 30075
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